

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION**

CC HOLDINGS, LLC,  
CC BRIARCLIFF, LLC,  
CONTINUUM COURTYARDS, LLC,  
AND COURTYARDS BRIARCLIFF, LLC,

Plaintiffs/Counter-Defendants,

vs.

Docket No. 3:16-CV-00561

EAST LAKE ACQUISITION COMPANY IV, LLC

Defendant/Counter-Plaintiff.

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS  
PURSUANT TO FED. R. CIV. P. 41(a)2**

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The Plaintiffs move to dismiss this action which was removed to this Court from the Chancery Court of Knox County, Tennessee on September 15, 2016. Subsequent thereto, Plaintiffs filed a Motion to Dismiss on March 9, 2017. Defendant East Lake Acquisition Company IV, LLC did not respond to the motion but the Court entered an Order denying the motion on April 28, 2017.

Plaintiffs would show that the issues raised in their Complaint have been rendered moot and it is not necessary to proceed on that Complaint. Pursuant to Fed. R. Civ. P. 41(a)2, the Court may dismiss at the Plaintiffs' request only by court order and on terms that the Court considers proper. The Defendant did file a Counterclaim prior to being served with the Plaintiffs' Motion to Dismiss. Fed. R. Civ. P. 41(a)2 further provides that the action may be dismissed over the Defendant's objection only if the Counterclaim can remain pending for adjudication.

Plaintiffs presumed that Defendant East Lake would object to the dismissal unless its Counterclaim could remain pending for independent adjudication. It has not done so.

It is the Plaintiffs' intention to dismiss only their Complaint and allow the Counterclaim to remain pending for independent adjudication. However, since Defendant made no response whatsoever to the original motion, it would appear to Plaintiffs that the entire matter should be dismissed. It is in the Court's discretion to dismiss the Complaint on terms that the Court considers proper. If the Court finds it proper for the Counterclaim to proceed for independent adjudication, then Plaintiffs have no objection.

Accordingly, the Plaintiffs renew the original Motion to Dismiss.

Respectfully submitted this 9<sup>th</sup> day of May, 2017.

ATTORNEYS FOR PLAINTIFFS

s/ DARYL R. FANSLER  
DARYL R. FANSLER (BPR 010219)

BERNSTEIN, STAIR & MCADAMS LLP  
116 Agnes Road  
Knoxville, Tennessee 37919  
(865) 546-8030

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of May, 2017, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

*s/ DARYL R. FANSLER*

DARYL R. FANSLER (BPR 010219)  
BERNSTEIN, STAIR & MCADAMS LLP  
116 Agnes Road  
Knoxville, Tennessee 37919  
(865) 546-8030